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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,631	10/09/2001	Gordon R. Boyes	60426-359 2001E18432US	9389

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SIEMENS CORPORATION  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
170 WOOD AVENUE SOUTH  
ISELIN, NJ 08830

EXAMINER

BRYANT, DAVID P

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/974,631

Applicant(s)

BOYES ET AL.

Examiner

David P. Bryant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 27-29 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-33 is/are allowed.
- 6) ☒ Claim(s) 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (AAPA) in view of Shimada et al. (U.S. Patent No. 6,241,936) and Balderrama (U.S. Patent No. 5,108,524).

Claim 27: AAPA is found on page 1 of the specification, where it is disclosed that an air induction assembly is conventionally provided with a "peel and stick" type foam gasket material. With such a gasket, a pre-manufactured gasket is provided with an adhesive backing, and is disposed on a piece of wax paper. In use, the gasket is peeled off the wax paper and applied to the desired surface of the air induction assembly. Thereafter, as is known in the art, another component of the air induction assembly is situated against the gasketed portion to form an airtight seal. Based on this disclosure, it is assumed that such a "peel and stick" gasket system is typically employed between the neck of a lower shell of an air induction assembly and a mass air flow sensor inserted therein.

AAPA fails to teach positioning a mold around an interior surface and an exterior surface of the neck of the lower shell, dispensing a liquid form of thermal mastic elastomeric material

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into the mold to create the elastomeric seal, and removing the elastomeric seal from the mold with the neck attached.

Shimada et al. teach a method of forming a foamed gasket **20** around the neck **16** of a component, the method comprising positioning a mold **30** around an interior surface and an exterior surface of the neck, dispensing melted elastomeric foamed material through nozzle **34** into a mold surface **32** of the mold, and removing the neck and attached gasket **20** from the mold. See Figures 3A-3D. As disclosed in column 1 (lines 44-62) of Shimada et al., conventional "peel and stick" type gaskets require complicated manual assembly steps which increase manufacturing costs. As disclosed in column 2 (lines 38-48), the integral molding process for the gasket of Shimada et al. facilitates mass production by excessively reducing the manual steps required in the prior art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the gasket around the neck of the lower shell of AAPA using the molding process of Shimada et al. to reduce the manual steps required in the prior art "peel and stick" method. It is noted that, in the molding process of Shimada et al., the foamed material is first dispensed into the mold, and the neck of the component is subsequently inserted therein, rather than first inserting the neck of the component into the mold and subsequently dispensing the liquid form into the mold to form the elastomeric seal. However, the sequence of these two steps is deemed to have been an obvious matter of choice, since applicant has not stated that the sequence solves any stated problem, and it appears that the sequence disclosed by Shimada et al. would work equally as well.

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Balderrama teaches a method for applying a hot melt gasket **24** around the neck of a container prior to applying a cover **16/19** thereon. As depicted in Figures 8 and 9 and disclosed in column 2 (lines 2-10 and 36-41), a hot melt unit **27** includes a supply of hot melt material (i.e. a liquid form of thermal mastic elastomeric material), which is heated by a heater **29** to melt and maintain the hot melt material in a molten state. As depicted in Figures 1-3, the hot melt material is fed from a nozzle **26** to a lip surface **17** of the container, and is then allowed to cure at room temperature prior to assembly of the container. As disclosed in column 1 (lines 10-52), the hot melt gasket material is intended to replace pre-manufactured gaskets.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the gasket of AAPA/Shimada et al. from a hot melt material, in view of the disclosure of Balderrama that the hot melt material is a suitable replacement for pre-manufactured gaskets.

Claims 28 and 29: Balderrama teaches blending nitrogen gas from pressure tank **31** into the hot melt material to form a foamed hot melt material. See column 4 (lines 5-27).

***Allowable Subject Matter***

Claims 31-33 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art fails to teach or suggest forming an elastomeric seal between an outer surface of a mass air flow sensor and the inner diameter of a neck of a lower shell by dispensing a liquid form of thermal mastic elastomeric material through an aperture in the neck and between the neck and the mass air flow sensor.

***Response to Arguments***

Applicant's arguments filed June 23, 2003, have been fully considered but they are not persuasive.

Insofar as the arguments pertain to the new grounds of rejection set forth above, the following are the examiner's responses thereto.

Regarding claims 27-29: Applicant argues "If the gasket was formed around an object as suggested by Shimada, there is no reason to employ the "peel and stick" method as a peel and stick attachment is not necessary." The examiner agrees. However, the rejection is not based on *combining* a "peel and stick" gasket with an integrally formed gasket, but rather is a *substitution* of an integrally formed gasket for the "peel and stick" gasket of AAPA. Shimada et al. disclose the advantages of such a substitution in column 2 (lines 38-48).

Regarding claims 31-33: No response is deemed necessary, since these claims have been allowed by the examiner. However, it should be noted that the allowability of the claims was not based on applicant's argument that "If the gasket was formed by injection as suggested by the secondary references, there would be no reason to employ gasket in the "peel and stick" method because the gasket would be injected in the liquid form through the aperture. Therefore, there is no need to employ a "peel and stick" gasket that would need to be applied later." This argument was not convincing, since the rejection was not based on *combining* a "peel and stick" gasket with an injected gasket, but rather was a *substitution* of an injected gasket for the "peel and stick" gasket of AAPA. Regardless, the claims are now considered allowable for the reasons outlined above in the *Allowable Subject Matter* section.

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### ***Conclusion***

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **David Bryant** whose telephone number is **(703) 308-1859**. Draft amendments or proposed changes to the application may be faxed directly to the examiner at any time via RightFAX at (703) 746-4213. The examiner can normally be reached on **Mondays-Thursdays from 6:30 AM to 5:00 PM**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
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Information Help line	1-800-786-9199
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David P. Bryant  
Primary Examiner  
Art Unit 3726